IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.239 of 2007
with
Civil Application No. 2993 of 2007

Shri Bhimrao Chandrakant Tambe ..Petitioner

vs.

1. Shri Ashok Madhusudan Ambekar
and ors. ..Respondents

Shri B.G.Gangsali for petitioner.
Shri P.B.Shah for respondents.

CORAM: S.C.DHARMADHIARI J.
20th December, 2007

P.C.

1. It is not necessary to issue any notice to the respondents nor is there any necessity to consider the request in Civil application no. 2993 of 2007. The Writ Petition is against the interlocutory order. By the said order the Civil Judge, Jr.Dn., Mahad had refused to refer to the alternate issue framed of tenancy to the authorities under the Bombay Tenancy and Agricultural Land act, 1948. Admittedly, the issue is framed after taking into consideration the alternate relief claimed in the plaint. The first prayer is seeking declaration of onwership and continued possession. For the plaintiffs to establish the said fact and prove it in

accordance with law, at this stage, it is not necessary to refer the matter to the authority. As and when occasion arises and evidence is sought to be led on the basis that the petitioner/plaintiff before me is a tenant of the agricultural land, then, the plaintiff is at liberty to apply for the relief claimed in the subject application (Exh.,80) and such application if made shall be dealt with without being influenced by any observations in the order under challenge and on its merits and in accordance with law. Granting such liberty, the present petition is dismissed. Civil Application is also disposed of accordingly. Needless to state that the suit must proceed and the plaintiff should lead evidence in sofar as prayer (a) of the plaint is concerned.

(S.C.DHARMADHIKARI J.)